

SARITA KEDIA

LAW OFFICES, P.C.

5 EAST 22ND STREET, SUITE 7B
NEW YORK, NEW YORK 10010
WWW.KEDIALAW.COM

INFO@KEDIALAW.COM

TEL: 212.681.0202

FAX: 212.614.0202

May 26, 2012

BY ECF

Honorable Sandra L. Townes
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Frank Guerra, et al., 10 Cr. 147 (S-4) (SLT)

Dear Judge Townes:

On behalf of Michael Persico, I submit with this letter the exhibits referenced in Mr. Persico's opposition to the government's motion to preclude cross-examination regarding sentences received by other cooperating witnesses, filed yesterday. Additionally, I note that Judge Cogan in United States v. Gioeli, 08 Cr. 240 (E.D.N.Y.), also permitted the following cross-examination of the witness Dino Calabro, who will be testifying at this trial as well:

Q. Well, are you aware of someone named Sal Vitale?

A. Yes, I'm aware of him. I met him.

Q. You met him, right?

You testified about him, correct?

A. Absolutely.

Q. You know that he's a cooperating witness with the
government, right?

A. Yes, I do.

Honorable Sandra L. Townes
United States District Judge
May 26, 2012
Page 2

Q. You know that he was sentenced to time served for 11 murders, right?

A. Yes, I do.

Q. You would like to get that same treatment, wouldn't you?

A. I would like to do better than that.

Q. You would like to do better than time served, right?

A. Absolutely.

See Transcript of Proceedings dated March 27, 2012, Ex. C.

As discussed in our earlier submission, given that cross-examination is the “greatest legal engine ever invented for the discovery of truth,” California v. Green, 399 U.S. 149, 158 (1970), curtailing cross on the fundamental issue of a witness’s motive to testify would violate the defendant’s Constitutional right under the Sixth Amendment to confront his witnesses. See Olden v. Kentucky, 488 U.S. 227 (1988). Clearly, at least two of the witnesses expected to testify at this trial, Reynold Maragni and Dino Calabro, are aware of and motivated to cooperate with the government based on sentences they know other cooperators received.

Respectfully submitted,
/s/
Sarita Kedia
Paul Shechtman

cc: Government counsel
All defense counsel
(By ECF)